



MISSOURI DEPARTMENT OF MENTAL HEALTH



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
6.515

Dorn Schuffman, Director

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|---|------------------------|---|-----------------------------|-----------------------|
| CHAPTER Human Resources | SUBCHAPTER Employee | EFFECTIVE DATE May 1, 2004 | NUMBER OF PAGES 3 | PAGE NUMBER 1 of 3 |
| SUBJECT Employment Disqualification Exceptions | | AUTHORITY 630.050, 630.155, 630.160 & 630.170 RSMo | HISTORY See Below | |
| PERSON RESPONSIBLE Director, Office of Human Resources | | | Sunset Date July 1, 2007 | |

PURPOSE: The DOR provides exception procedures for persons who are disqualified from employment due to criminal offenses or incidents of abuse, neglect or misuse of funds/property, but wish to work in a facility operated by the department.

Application: Applies to the entire department.

(1) Definitions and Clarifications.

(A) A Disqualifying Incident is either -

1. a crime which results in a person being disqualified from employment in accordance with DOR 6.510 or 9 CSR 10-5.190; or
2. one or more administrative findings of abuse, neglect or misuse of funds/property which, under DOR 2.205 or 9 CSR 10-5.200, lead to a person being listed on the DMH disqualification registry.

(B) An exception is a decision by the department's Exceptions Committee to allow a person to be employed in a facility operated by the department despite the fact that the person is disqualified from employment due to commission of a disqualifying incident.

1. Neither of the following is subject matter for an exception:

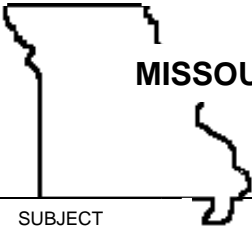
A. a contention that one did not in fact commit the disqualifying incident; or

B. a contention that the disqualification sanction is invalid;

2. An exception does not remove a person's name from the DMH disqualification registry nor does it close the citation of the crime on the person's criminal record; it simply allows that person to be employed in a facility operated by the department. The exception is subject to the conditions described in the request and to the conditions described in the approval of the request.

3. The exceptions option under this DOR does not replace or substitute for the appeal procedures afforded under DOR 2.205 and 9 CSR 10-5.200 or any other administrative process.

A. A person is not required to exhaust the appeal procedures as a pre-requisite to requesting an exception; however, an exception will not be considered while an appeal is pending.



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B. A person may not request an exception until twelve months have passed since the sentence of the court or since the department gave official notice of the person's name being added to the DMH disqualification registry.

(2) Regulations Subject to Exception. The only regulations subject to exception under this DOR are those provisions in DOR 2.205, DOR 2.210, DOR 6.510, 9 CSR 10-5.190 and 9 CSR 10-5.200 which disqualify from a person from employment due to that person having committed a disqualifying incident .

(3) Who may apply for an exception.

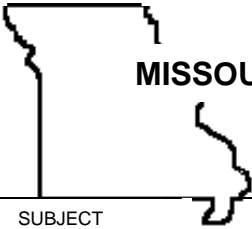
(A) An individual may request an exception on his or her own behalf.

(B) Any facility operated by the department may request an exception on behalf of a disqualified individual.

(4) How to request an exception.

(A) A person may request an exception by submitting to the department's Exceptions Committee a written request which—

1. Cites the DOR number or rule number in question;
2. Indicates why and for how long the exception should be granted;
3. Is accompanied by supporting documentation, if appropriate;
4. Includes a letter from the disqualified person providing the following information:
 - a. A description of the disqualifying incident;
 - b. When the disqualifying incident occurred;
 - c. If the disqualifying incident was a crime, the sentence of the court;
 - d. Mitigating circumstances, if any;
 - e. Activities and accomplishments since the disqualifying incident;
 - f. The names and dates of any relevant training or rehabilitative services;
 - g. Identification of the type of employment or position the applicant wishes to maintain or obtain and the name of the department facility which he or she wishes to work or continue working; and
 - h. Changes in personal life since the disqualifying incident (e.g. marriage, family, and education);



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5. References, i.e., written recommendations from at least three (3) persons who verify the applicant's assertions; and

6. Work history, with particular emphasis on work in the mental health field.

(B) A request may not be repeated more than once every twelve months.

(5) Response. The Exceptions Committee shall respond in writing to the request within forty-five (45) calendar days of receiving the request.

(A) The response shall grant the full exception, grant the exception with conditions, deny the exception or defer a decision pending receipt of additional information;

(B) The Exceptions Committee shall grant the request if, in its judgment, a clear showing has been made that the person will not commit any additional acts for which the person had originally been disqualified for or any other acts that would be harmful to a patient, resident or client.

(6) Decisions related to requests for exceptions under this DOR are not subject to appeal within the department.

(7) Documentation. A recipient of an exception and the employing facility shall maintain documentation of the exception and make the documentation available for review upon request by authorized staff of the department.

(8) Expiration Date for an Exception.

(A) An exception becomes null and void without any further action by the department under any of the following circumstances.

1. There are changes in circumstances described in the request for an exception.

2. There is a change in circumstances that would violate the conditions describe in the approval of the exception.

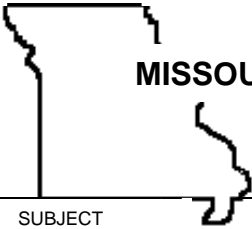
(B) If an exception expires under this section, it may be renewed by submission of a new request.

(9) Rescinding Decisions. The Exceptions Committee may rescind any exception if, in its judgment, any of the following occur:

(A) The subject and/or employer failed to meet a condition of the exception, or to maintain documentation required under section (7);

(B) It is discovered that the request contained misleading, incomplete or false information; or

(C) The exception results in poor quality of care, or risk/harm to a client or resident.



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(10) If the committee rescinds an exception, the committee shall provide all concerned parties with a notice of the rescission with an effective date. There shall be no appeal of a rescission of an exception.

(11) Each year the Office of Human Resources will analyze data to determine utilization of various screening methodologies and their effectiveness of identifying applicants who do not meet the employment expectation. A report will be completed showing trends, facility participation rates and various turnover rates. The data will be shared with the Divisions of CPS and MRDD in helping plan the background screening progress and its effectiveness.

HISTORY: Original DOR effective May 1, 2004.